

Kingborough



COUNCIL MEETING MINUTES

4 December 2023

These Minutes are provided for the assistance and information of members of the public, and are a draft until confirmed as a true record at the next Ordinary Meeting of Council.

Kingborough Councillors 2022 - 2026



Mayor
Councillor Paula Wriedt



Deputy Mayor
Councillor Clare Glade-Wright



Councillor Aldo Antolli



Councillor David Bain



Councillor Gideon Cordover



Councillor Kaspar Deane



Councillor Flora Fox



Councillor Amanda Midgley



Councillor Mark Richardson



Councillor Christian Street

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MINUTES of an Ordinary Meeting of Council
Kingborough Civic Centre, 15 Channel Highway, Kingston
Monday, 4 December 2023 at 5.30pm

1 AUDIO RECORDING

The Chairperson declared the meeting open, welcomed all in attendance and advised that Council meetings are recorded and made publicly available on its website. In accordance with Council's policy the Chairperson received confirmation that the audio recording had commenced.

2 ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS

The Chairperson acknowledged the traditional custodians of this land, paid respects to elders past and present, and acknowledged today's Tasmanian Aboriginal community.

3 ATTENDEES

Councillors:

Mayor Councillor P Wriedt	✓
Deputy Mayor Councillor C Glade-Wright	✓
Councillor A Antolli	✓
Councillor D Bain	✓
Councillor G Cordover	✓
Councillor K Deane	✓
Councillor F Fox	✓
Councillor A Midgley	✓
Councillor M Richardson	✓
Councillor C Street	✓

Staff:

General Manager	Mr Gary Arnold
Director People & Finance	Mr David Spinks
Director Governance, Recreation & Property Services	Mr Daniel Smee
Director Environment, Development & Community Services	Ms Deleeze Chetcuti
Manager Legal & Property	Mr Scott Basham
Media & Communications Advisor	Ms Sam Adams
Executive Assistant	Mrs Amanda Morton

4 APOLOGIES

There were no apologies.

C1/23-2023

5 CONFIRMATION OF MINUTES

Moved: Cr Clare Glade-Wright
 Seconded: Cr Flora Fox

That the Minutes of the open session of the Council Meeting No. 22 held on 20 November 2023 be confirmed as a true record.

CARRIED

6 WORKSHOPS HELD SINCE LAST COUNCIL MEETING

Date	Topic	Detail
27 November	Office Accommodation	Update provided on options for future office accommodation for Council

7 DECLARATIONS OF INTEREST

There were no declarations of interest.

8 TRANSFER OF AGENDA ITEMS

There were no agenda items transferred.

C2/23-2023

9 QUESTIONS WITHOUT NOTICE FROM THE PUBLIC

Mr Charles Biggins asked the following questions without notice:

9.1 Local Government Act

Are Councillors and the General Manager required to read the Act before taking office?

General Manager responds:

It's not a requirement that I'm aware of Mr Biggins, but I would encourage any Councillor or aspiring Councillor to acquaint themselves with the requirements of that particular Act.

Mr Biggins:

How many times is the body corporate entity known as Council referred to as being an actual tier of government in the entire Local Government Act?

General Manager:

I don't know the answer to that question, Mr Biggins, except to say that, as I responded previously to you to draw your attention to section 20 of the Act, which talks about the functions and power of councils in this state.

Mr Biggins:

Is local government recognised in the Australian Constitution? We had a referendum in 1988 to include local government in the Constitution. Perhaps the General Manager remembers what the result of that referendum was.

General Manager:

Yes, like many in the room I do remember the result of that referendum. It was in the category of a no vote, and that remains the same today.

Mr Biggins:

Do Councillors enjoy parliamentary privilege in this Chamber? Are they protected from charges of defamation like members of state and federal governments?

Mayor:

No, we are not.

Mr Biggins:

Only a government can levy taxes. Corporate bodies can charge fees for goods and services pursuant to commercial transaction. So is Council a body corporate performing some functions of government, or are they a tier of actual government?

General Manager:

The Council is operating in accordance with the *Local Government Act 1993* in Tasmania and the section regarding the ability for Council to put in place a general rate is section 90 in the Act.

9.2 Bushfire Preparedness

If I was hypothetically to get a bushfire hazard report done for my whole property, identifying the fire risk that it poses to my neighbours, as well as my own dwelling, by a qualified bushfire hazard assessor, and I presented that assessment report to the General Manager, would the General Manager be duty bound by the Local Government Act to issue me with an abatement notice for my own property?

General Manager responds:

The reference to a BAL rating is a process that has been put in place under the Planning Act that requires when a development approval is sought for a new dwelling, that in areas throughout this municipality and others in the State, it may be appropriate to have the BAL rating determined by the appropriate qualified expert and that will influence the design ultimately, of any approved dwelling insofar as the building requirements and addressing that bushfire assessment rating.

Mr Biggins:

That wasn't actually the question asked. If you're presented with evidence that a bushfire hazard exists, are you are you duty bound by the Local Government Act to abate that hazard?

General Manager:

There is a section in the Local Government Act that relates to a nuisance that would pick up your hypothetical question in this regard. We have officers that are authorised to undertake inspections during the fire season and if a property is deemed a fire risk or a nuisance in that regard, it will be issued with an abatement notice.

Mr Biggins:

As as the Local government Act has precedent over a Council by-law and a Council planning scheme and a Council policy, would I still be required to pay a biodiversity offset for the vegetation loss associated with complying with the abatement notice?

General Manager:

I think the two are not necessarily related. I understand the context of the question. But if a property, any property, is determined to constitute a fire risk and a nuisance under the Local Government Act, an abatement notice is issued.

Mr Biggins:

And are offset payments wavered in instance?

General Manager:

The two are not related, Mr Biggins.

Mayor:

Can I just get some clarification on that? If I can drill down to what the question is, if you're served with an abatement notice and a tree is cut down as part of that, that would otherwise attract a penalty under our Biodiversity Offset Policy, does that penalty still have to be paid?

General Manager:

I wouldn't imagine so, but I'd have to take that question on notice, because I can't imagine a situation where that might arise.

Mr Biggins:

As all of Kingborough outside of the town boundaries has been assessed by the TFS as being at high risk of bushfire, why hasn't all of the those landowners outside of the town boundary been issued with an abatement notice by the GM?

General Manager:

The fact that over 90% of Kingborough is identified as a high fire risk area is more in keeping with raising awareness for property owners because fire safety is everyone's concern. Part of our role is working with the Tasmanian Fire Service to educate our community and we've had a number of community meetings in that regard in the lead up to this bushfire season.

Mr Biggins:

Does the Mayor know through the Emergency Management Council of any planned staged evacuation plans, which certainly aren't being shared with the the broader community?

Mayor:

It's my understanding that we would be directed by a state control centre in relation to evacuations and where the most appropriate places would be, dependent on where the fire is. Our role prior to that is to have locations identified as safe spaces and evacuation centres and those have been identified and made public to the community for quite a few years. But we are at the direction of what would be a regional command centre as to where and when evacuations take place. Obviously we would have staff, our Emergency Management Coordinator would be part of that, in the event of an incident, but the learnings that they had from the Dunalley bushfires was that you can't just go and evacuate wherever you like, and anyone can pull up a boat and take a boat load of people because they had situations where they had boatloads of people that were unaccounted

for because nobody knew where they had gone with well meaning volunteers. It's done much more now in a coordinated response based on those learnings.

C3/23-2023

10 QUESTIONS ON NOTICE FROM THE PUBLIC

10.1 Kingston Beach Traffic Management Study

Mr Roger Tonge submitted the following question on notice:

1. *Has Council committed to addressing the issue of car parking in the Kingston Beach precinct and if so, what is being considered?*
2. *If Council is seriously considering the issue, can an indication be given of what is proposed and a time frame for implementation?*
3. *Bearing in mind that some residents have been approached for their opinion in respect of the construction of a multi storey car park, can Council advise if a multi storey car park is under consideration and if it is, what would be the preferred location and time frame for construction?*

Officer's Response:

The proposed Local Area Traffic Management (LATM) project has minimal impact on parking availability, with only a couple of spaces on Beach Road, near the Balmoral Road intersection identified. The scheme will have no impact on existing carparking spaces on Osborne Esplanade, or anywhere else in the Kingston Beach precinct. The provision of addressing car parking in the Kingston Beach precinct is outside the scope of the LATM project.

Council has listed the public carpark at the junction of Beach Road and Recreation Street, as well as the public carpark near the Early Childhood Intervention Service, for rehabilitation in the 5-year capital works program. Improved delineation and rationalisation of parking spaces will be addressed as part of the rehabilitation projects.

Council has no current plans to construct a multi -storey carpark in the Kingston Beach precinct.

David Reeve, Director Engineering Services

10.2 Biodiversity Offset Policy

Ms Jo Landon submitted the following question on notice:

1. *On what date did Kingborough's planning scheme (either the current or previous planning scheme) first formally incorporate the Biodiversity Offset Policy document?*
2. *Regarding the past Tribunal and Tasmanian Planning Commission decisions on development applications and Section 43A applications that referenced the Biodiversity Offset Policy, does Council consider any of them to have tested the validity of the policy or financial offset charges?*
3. *Which Act of Parliament specifically authorises Council to charge financial biodiversity offsets?*

Officer's Response:

1. The Offset Policy was first introduced into the planning scheme in 2010, as part of the amendment to Schedule 10 of the Kingborough Planning Scheme 2000 (KPS 2000). Rather

than reference the policy as an incorporated document, this amendment included the relevant policy content in the planning scheme standards, including financial contributions. The Kingborough Interim Planning Scheme 2015 was the first planning scheme to formally reference the Biodiversity Offset Policy document, when it came into effect on 1 July 2015. In 2021, the scheme was amended to update reference to the 'incorporated documents' and that also included the correct referencing to the Kingborough Biodiversity Offset Policy.

2. It is considered that, any matter that is heard at the Tribunal or the Tasmanian Planning Commission which includes assessments and conditions that relate to offset requirements, the provisions of the Biodiversity Code and the associated Biodiversity Offset Policy, is a form of review. When such decisions occur through those bodies, the decision making and the validity of decision making is taken on by them. Numerous decisions have been made by, and permits issued under, the direction of both the Tribunal and the Commission requiring offsets consistent with the Policy, including financial offsets. In addition, the following has been confirmed by the Tribunal as part of two separate appeals which included explicit consideration of financial offsets:
 - A condition imposed on a permit "may require a monetary contribution, and that feature does not defeat the validity of such a condition, provided it is fairly and reasonably related to the Scheme, and imposed in good faith for that purpose"
 - The imposition of a condition requiring a financial offset is valid.
3. Clause 8.11 of the Planning Scheme provides Council with the ability to apply conditions which relate to the applicable zone and code standards and requirements in the planning scheme, including offset requirements to meet Clauses E10.7.1 and E10.8.1 of the Biodiversity Code. Pursuant to the Land Use Planning and Approvals Act 1993 (former provisions), the content of the Planning Scheme is required to be certified and approved by the Tasmanian Planning Commission, which is established under the Tasmanian Planning Commission Act 1997 prior to it coming into effect.

Tasha Tyler-Moore, Manager Development Services

C4/23-2023

11 QUESTIONS WITHOUT NOTICE FROM COUNCILLORS

Councillor Midgley asked the following questions without notice:

11.1 Off Lead Dog Area, Blackmans Bay

I was sent a photo by the public about an application that has been submitted for the recycled water treatment plant in Blackmans Bay, and they're just hoping this won't have an impact on the on off leash dog area in that facility.

General Manager responds:

I actually discussed that application with the planners this afternoon and they've indicated to me that there are no unforeseen implications for the off lead dog.

11.2 Child Safe-Guarding Policy

Does Council have a child safe-guarding policy?

Director People & Finance responds:

No, we don't at the moment, but we are working very hard to to produce one and we expect to bring one to the next Council meeting for adoption. LGAT circulated a draft policy late last week, recommending that all Councils adopt it as an interim measure pending further implementation and

discussions. It may well be the case that once it's adopted, we may have to make some minor amendments going forward, but we do intend to bring a policy to the next Council meeting.

Cr Midgley:

For individuals or services who provide activities or programmes focused on children and young people, do they all have a current working with vulnerable children card? Are they provided any training in child safeguarding or made aware of Council policies in that area?

Director People & Finance:

All Council staff whose role provides services engaging with children and young people do have a current card and compliance with that is monitored through our people team. We probably do need to do a bit of a check of people in the organisation who have a more ad hoc kind of arrangements and contact with young people. But certainly those people with regular contact do. We haven't undertaken training for a little while, to be fair, and LGAT, as I've just mentioned, are planning to bring together some training and implementation advice across the sector. I would anticipate that we would be plugging into that when it's rolled.

Cr Midgley:

I went to a stop domestic violence conference last week and I'm wondering if any Council staff have participated in a DV alert training?

Director People & Finance responds:

Yes, around about 20 Council staff attended such training back in 2019 and I think we do need to consider whether we should be rolling that out again.

C5/23-2023

12 QUESTIONS ON NOTICE FROM COUNCILLORS

12.1 Child Sexual Abuse Prevention

Cr Glade-Wright submitted the following question on notice:

As a result of the 2018 Commonwealth Royal Commission into Child Sexual Abuse (CSA), and the Commission of Inquiry of the Tasmanian Government's Response to Child Sexual Abuse in Institutional Settings which released its findings in August this year, there is a new Tasmanian Child and Youth Safe Framework legislation which applies to Local Government from 1st January which requires council to take on a leadership role in CSA prevention.

(<https://www.justice.tas.gov.au/carcru/child-and-youth-safe-organisations-framework>)

1. *What changes is Kingborough Council making to ensure the organisation is compliant with new standards?*
2. *Other councils have begun some of the following:*
 - *Serving as a local exemplar of a Child Safe organisation - zero tolerance of CSA*
 - *Voluntarily self-accrediting to the TAS Child Safe Standards*
 - *Building a public memorial to local victim/ survivors*
 - *Leading community awareness campaigns with lived experience input*
 - *Observing key calendar days e.g. National Survivors Day, Day for Daniel, etc.*

- *Auspicing a CSA Prevention Consortium (like Ballarat Council)*
- *Facilitating all Council Managers and Councillors to secure and maintain a Working with Vulnerable People Clearance (WWVP)*
- *Ensuring that all Grant recipients evidence compliance with the Child and Youth Standards*

3. *Will Kingborough Council be recommending any of these actions to elected members?*

Officer's Response:

Kingborough Council welcomes the new Child and Youth Safe Organisations Framework (CYSOF) and the Reportable Conduct Scheme (RCS). In readiness for this new legislation, Kingborough Council to date has undertaken the following actions:

- Management staff has attended various training sessions and forums discussing the CYSOF and RCS,
- Executive Management team has been briefed on the new legislation, and the requirements around the CYSOF and RCS,
- General Manager sent Council wide communication to all staff about the new legislation on 9 November.

Kingborough Council will undertake an internal review to assess our current practices against the requirements of the new legislation, to ensure compliance, and to move towards voluntarily self-accrediting to the TAS Child Safe Standards.

As part of this process, we are considering the following actions:

- *Facilitating all Council Managers and Councillors to secure and maintain a Working with Vulnerable People Clearance (WWVP),*
- *Serving as a local exemplar of a Child Safe organisation - zero tolerance of CSA.*

Angie Everingham, Manager People & Safety

13 PETITIONS STILL BEING ACTIONED

There are no petitions still being actioned.

14 PETITIONS RECEIVED IN LAST PERIOD

No Petitions had been received.

15 OFFICERS REPORTS TO COUNCIL

C6/23-2023**15.1 DOG MANAGEMENT POLICY**

Moved: Cr Aldo Antolli
Seconded: Cr Clare Glade-Wright

That Council having considered the received submissions during the statutory public advertising period, endorse the attached Kingborough Dog Management Policy and declared areas in accordance with the provisions of the Act, and notify the public of the date on which the declared areas take effect and periods during which the declared areas remain in force.

Amendment:

Moved: Cr Gideon Cordover
Seconded: Cr Flora Fox

That Council having considered the received submissions during the statutory public advertising period, endorse the attached Kingborough Dog Management Policy, with the exception of Snug Beach, and declared areas in accordance with the provisions of the Act, and notify the public of the date on which the declared areas take effect and periods during which the declared areas remain in force.

To amend the policy in clause 5.7.1.v RESTRICTED AREAS remove the words "(except the southern end)".

Moved: Cr Amanda Midgley
Seconded: Cr Clare Glade-Wright

That Cr Cordover be allowed a further minute to complete his contribution.

CARRIED

The amendment was then put.

In Favour: Crs Gideon Cordover and Cr Flora Fox

Against: Crs Paula Wriedt, Clare Glade-Wright, Aldo Antolli, David Bain, Kaspar Deane, Amanda Midgley, Mark Richardson and Christian Street

LOST 2/8

The substantive motion was then put.

CARRIED

C7/23-2023**15.2 DRAFT KINGBOROUGH SPORT & RECREATION STRATEGY**

Moved: Cr Kaspar Deane
Seconded: Cr Amanda Midgley

That Council approve the release of the Draft Kingborough Sport and Recreation Strategy for public comment.

*Cr Antolli left the room at 6.47pm
Cr Antolli returned at 6.49pm*

*Cr Richardson left the room at 7.05pm
Cr Richardson returned at 7.06pm*

CARRIED

*Meeting adjourned at 7.21pm
Meeting resumed at 7.27pm*

C8/23-2023**15.3 MILLS REEF PARK**

Moved: Cr Clare Glade-Wright
Seconded: Cr Flora Fox

That Council agrees to accept management and maintenance responsibilities for Mills Reef Park at Alonnah and adds the facility to its asset and insurance registers.

CARRIED**C9/23-2023****15.4 SPRING FARM CONNECTION TRACK**

Moved: Cr Amanda Midgley
Seconded: Cr Gideon Cordover

That Council approve an allocation of \$237,000 from the Public Open Space account towards the development of a trail connection between Spring Farm Estate and the Kingborough Sports Precinct.

CARRIED**C10/23-2023****15.5 APPENDICES**

Moved: Cr Amanda Midgley
Seconded: Cr David Bain

That the Appendices attached to the Agenda be received and noted.

CARRIED

16 NOTICES OF MOTION

There were no Notices of Motion received.

C11/23-2023

17 CONFIRMATION OF ITEMS TO BE DEALT WITH IN CLOSED SESSION

Moved: Cr Flora Fox
Seconded: Cr David Bain

That in accordance with the *Local Government (Meeting Procedures) Regulations 2015* Council, by absolute majority, move into closed session to consider the following items:

Confirmation of Minutes

Regulation 34(6) *In confirming the minutes of a meeting, debate is allowed only in respect of the accuracy of the minutes.*

Applications for Leave of Absence

Regulation 15(2)(h) *applications by councillors for a leave of absence*

Current Court Matters

Regulation 15(2)(i) *relating to actual or possible litigation taken, or to be taken, by or involving the council or an employee of the council.*

CARRIED

In accordance with the Kingborough Council *Meetings Audio Recording Guidelines Policy*, recording of the open session of the meeting ceased.

Open Session of Council adjourned at 7.49pm

OPEN SESSION ADJOURNS

OPEN SESSION RESUMES

Open Session of Council resumed at 7.55pm

C12/23-2023

Moved: Cr Flora Fox
Seconded: Cr Amanda Midgley

The Closed Session of Council having met and dealt with its business resolves to report that it has determined the following:

Item	Decision
Confirmation of Minutes	Confirmed
Applications for Leave of Absence	Nil
Current Court Matters	Noted

CARRIED

CLOSURE

There being no further business, the Chairperson declared the meeting closed at 7.56pm

.....
(Confirmed)

.....
(Date)